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| EXAMINER |
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JOSEPH, TONYA S

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3628

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08/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,271

Applicant(s)

POLLARI, PEKKA

Examiner

TONYA JOSEPH

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/20/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8, 10, 14-19, 21, 22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10, 14-19, 21-22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/20/2009 has been entered.

Status of Claims

Claims 1-3, 5-8, 10-11 and 14-24 were previously examined. Claims 1, 14-16, 18-19 and 22 have been amended. Claims 11, 20 and 23 have been cancelled. Thus, Claims 1-3, 5-8, 10, 14-19, 21-22 and 24 are presented for examination.

Response to Arguments

Applicant's arguments filed 07/20/2009 have been fully considered but they are not persuasive.

Applicant argues that the cited references do not teach the method of cancelled claim 11. The Examiner disagrees. Edelman does teach, wherein the use of the application consumes network resources (see para. 98 and 109). As demonstrated in these paragraphs during registration a user decides to have automatic updates. In order to have automatic updates a Daemon is constantly running in the background and consuming network resources. During the use of the software the software periodically

checks for the smart card using API's and DLL's which also consume network resources.

Applicant further asserts that the cited references do not teach appending to each request for network resources by the application, the user identifier stored in the wireless terminal and the application identifier. The Examiner disagrees. As an initial matter, there is a lack of antecedent basis for the limitation, "each request for network resources". For Examination purposes, the Examiner is interpreting appending to a each request by the application, the user identifier..." as meeting the limitations of the claim. Further, Edelman teaches appending to each request an application identifier (see para. 67 lines 8-10 and para. 80 lines 1-3). Edelman does not explicitly teach appending to each request by the application a user identifier stored in the wireless terminal and the application identifier. Emondi teaches, In addition, by redundantly storing the same music track (e.g. a very popular music track) at multiple platforms, the load on the entire system is reduced because multiple platforms can handle multiple requests for the same popular music track. The interface 150 converts the particular access device protocol into the messaging platform protocol (and vice versa) so that the particular access device can communicate with the telephony messaging platform 100. Examples of the access device include (but are not limited to) Subscriber Identity Module ("SIM") Took Kit ("STK"), Unstructured Supplementary Service Data ("USSD"), Hyper Text Markup Language ("HTML"). The STK protocol uses a SIM card, which is a small card that includes a microprocessor and memory chip and which "belongs" to a specific user. When the user inserts the SIM card into an electronic device (e.g. a

cellular phone), the cellular phone is identified by the system as the user's phone (see para. 26 lines 13-16; para. 32 lines 11-21 and para. 36 lines 1-6).

Accordingly, Applicant's arguments are not persuasive and the rejections are maintained.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3, 5-8, 10, 14-19, 21-22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The independent claims recite the limitation " each request for network resources" in line 12. There is insufficient antecedent basis for this limitation in the claim.". For Examination purposes, the Examiner is interpreting appending to a each request by the application, the user identifier..." as meeting the limitations of the claim.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-7, 10, 14-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman et al. U.S. Pre Grant Publication No. 2002/0029347 A1 in view of Circenis U.S. Pre-Grant Publication No. 2003/0135474 A1 in further view of Emondi et al. U.S. Pre-Grant Publication No. 2002/0016748 A1.

6. As per Claims 1, 14-15 and 18, Edelman teaches receiving an application identifier for an application at a business relationship manager module (see para. 80-81); transmitting a user identifier of a user of a wireless terminal to an operator network, wherein the user identifier is independent of the business relationship manager module (see para. 59 lines 3-10, para. 60 and para. 65 lines 1-6, It is at least implicit that user and application identification information is used to perform the aforementioned steps of Edelman), and receiving a list of user registered applications in response to said user identifier (see para. 65, 68 and 80), determining whether the list of user registered applications includes the application identifier for the application (see para. 60; 62 lines 1-4 ; 59 lines 3-10 and para. 124), wherein when said list of user registered applications includes said application (see para. 65 lines 6-9), Edelman does not explicitly teach the method taught by Circenis producing a periodic report on usage of said application (see para. 12 and 24). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Edelman to include the teachings of Circenis to enable dynamic customer licensing; Edelman further teaches wherein the use of the application consumes network resources (see para. 98 and 109). appending to each request for network resources by the application, the user identifier stored in the wireless terminal and the application identifier (see para. 67 lines 8-10 and para. 80 lines 1-3). Edelman does not explicitly teach appending to each request by the application a user identifier stored in the wireless terminal and the application identifier. Emondi teaches(see para. 26 lines 13-16; para. 32 lines 11-21 and para. 36 lines 1-6). It would have been prima facie obvious to one of ordinary skill in the art at the time of

invention to modify the methods of Edelman, Circenis to include the teachings of Emondi in order to send user specific music requests for listening to music tracks as taught in Emondi para. 43.

7. The limitation, "to enable billing for use of the application" and "to enable billing for use of the application when the list of user registered applications includes the application" are merely statements of intended use and as such is afforded little patentable weight.

8. As per Claim 2, Edelman in view of Circenis in further view of Emondi teaches the method of claim 1 as described above. Edelman further teaches wherein when said list of user registered applications does not include said application (see para.73), said method further comprises registering the application with said operator network (see para. 125 and 129).

9. As per Claim 3, Edelman in view of Circenis in further view of Emondi teaches the method of claim 2 as described above. Edelman further teaches wherein the registering is via signaling between the business relationship manager module and the operator network and is according to session initiation protocol signaling or is signaling using an extensible markup language over hypertext transfer protocol or secure hypertext transfer protocol (see para. 67 lines 8-10 and para. 68 lines 3-6, Examiner is interpreting the registration authority to be located on the operator network).

10. As per Claim 5, Edelman in view of Circenis in further view of Emondi teaches the method of claim 1 as described above. Edelman further teaches wherein the

method further comprises comparing said list of user registered applications with said application identifier (see para. 80).

11. As per Claim 6, Edelman in view of Circenis in further view of Emondi teaches the method of claim 1 as described above. Edelman further teaches wherein the list of user registered applications is received from a user information server of the operator network (see para. 65, 68 and 80).

12. As per Claim 7, Edelman in view of Circenis in further view of Emondi teaches the method of claim 1 as described above. Edelman further teaches receiving an indication to de-register the application (see para. 96 lines 1-5); signaling a de-register message to a user information server of the operator network so as to indicate that the application is to be de-registered (see para. 96 and para. 97).

13. As per Claim 10, Edelman in view of Circenis in further view of Emondi teaches the method of claim 1 as described above. Edelman does not explicitly teach the limitation taught by Circenis wherein the periodic report is a monthly report for monthly billing for use of the application (see para. 31 lines 13-20). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Edelman to further include the teachings of Circenis to enable billing analysis.

14. As per Claim 16, Edelman teaches the wireless terminal comprises a business relationship manager configured to determine whether the application including an application identifier is registered with the operator network (see para. 60 and 62 lines 1-4), Edelman further teaches, the user information server of the operator network is

configured to refer to the one or more data stores, wherein the user identifier is independent of the business relationship manager module (see para. 60, Examiner is interpreting the licensing medium as a data store). Edelman does not explicitly teach the method taught by Circenis produce a periodic report on usage of said application (see para. 12 and 24). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Edelman to include the teachings of Circenis to enable dynamic customer licensing. Edelman further teaches wherein the use of the application consumes network resources (see para. 98 and 109). appending to each request for network resources by the application, the user identifier stored in the wireless terminal and the application identifier (see para. 67 lines 8-10 and para. 80 lines 1-3). Edelman does not explicitly teach appending to each request by the application a user identifier stored in the wireless terminal and the application identifier. Emondi teaches(see para. 26 lines 13-16; para. 32 lines 11-21 and para. 36 lines 1-6). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Edelman, Circenis to include the teachings of Emondi in order to send user specific music requests for listening to music tracks as taught in Emondi para. 43. The limitation, *"to enable billing for use of the application"* and *"to enable billing for use of the application when the list of user registered applications includes the application"* ; *"to locate any registration information for the application using the identifier of the application and the user identifier , in order to determine if the application is registered with the user network"* are merely statements of intended use, and as such is afforded little patentable weight.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman et al. U.S. Pre Grant Publication No. 2002/0029347 A1 in view of Circenis U.S. Pre-Grant Publication No. 2003/0135474 A1 in further view of Emondi et al. U.S. Pre-Grant Publication No. 2002/0016748 A1 and Official Notice.

16. As per Claim 8, Edelman in view of Circenis in further view of Emondi teaches the method of claim 1 as described above. Edelman further teaches, wherein the application identifier is common to all copies of the application (see para. 81). Edelman further teaches an identifier for the application in the one or more data stores holding information indicating whether the application is registered (see para. 81). Edelman does not explicitly teach a common identifier is used as an application identifier. Official Notice is taken that a common identifier being used as an application identifier is old and well known. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Edelman and Circenis to include the teachings of Official Notice to minimize identifier generation.

17. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman et al. U.S. Pre Grant Publication No. 2002/0029347 in view of Circenis U.S. Pre-Grant Publication No. 2003/0135474 A1 in further view of Emondi et al. U.S. Pre-Grant Publication No. 2002/0016748 A1 and Samjani, "General Packet Radio Service {GPRS}" (Reference V of the attached PTO-892).

18. As per Claim 17, Edelman in view of Circenis in further view of Emondi teaches the method of claim 16 as described above. Edelman does not explicitly teach a gateway general packet radio service support node, configured to count packets

bearing the user identifier and application identifier by monitoring received packets. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. Samjani further teaches, GPRS uses the radio resources for allocation of channels to the user. We know that GPRS is not a circuit-switched oriented network. Hence, it involves more efficient usage of the available bandwidth (see pg. 14 col. 1, para. 7, lines 1-8); It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the systems of Edelman, Circenis and Emondi to include the teachings of Samjani in order to collect charging information from GPRS nodes with the applicable identifier to prepare it for submission to a billing system and use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2, para. 1 lines 1-4.

19. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable Kunii U.S. Pre-Grant Publication No. 2001/0056375 A1 in view of Edelman et al. U.S. Pre Grant Publication No. 2002/0029347 A1 in further view of Circenis U.S. Pre-Grant Publication No. 2003/0135474 A1 and CGI and Samjani, "General Packet Radio Service {GPRS}"

20. As per Claim 19, Kunii teaches providing to a wireless terminal at least one option for paying for use of an application hosted by the wireless terminal (see para. 46 lines 10-19 and para. 52 lines 4-15) and receiving an indication of an option for paying for use of the application along with an identifier of the application from a business relationship manager module, wherein the user identifier is independent of the business relationship manager module (see para. 53 lines 15-21). Kunii teaches receiving a user identifier stored in the wireless terminal. Kunii further teaches storing the indication of

the option for paying for use of the application along with the identifier of the application and the user identifier (see para. 52 and 53, it is implicit that subsequent to paying for the application, the selected option is saved so as to be sent to the users phone) and Kunii does not explicitly teach the limitation taught by Edelman determining whether the application hosted by the wireless terminal is registered with the operator network (see para. 60). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Kunii to include the teachings of Edelman to verify whether a user is authorized to access a particular piece of data, as taught in Kunii para. 60. Kunii does not explicitly teach the method taught by Circenis billing for use of the application in response to a periodic report on usage of said application (see para. 12 and 24). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Kunii and Edelman to include the teachings of Circenis to enable dynamic customer licensing. Kunii further teaches receiving from the wireless terminal a request issued by the application along with the user identifier and the identifier indicating the application (see para. 60 and 65); and Kunii does not explicitly teach a get request. CGI teaches Every HTTP request and response includes a message header, describing the message. A message body may also be included: 1) A HEAD or GET request sends only a header. Any form data is encoded in an HTTP_QUERY_STRING header field, which is available to the CGI program as an environment variable QUERY_STRING (see para. 3 and 4). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Kunii to include a get request in order to encode data as taught

in CGI para. 3 and 4). Kunii does not explicitly teach counting the packets bearing the identifier indicating the user and the identifier indicating the application. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. Samjani further teaches, GPRS uses the radio resources for allocation of channels to the user. We know that GPRS is not a circuit-switched oriented network. Hence, it involves more efficient usage of the available bandwidth (see pg. 14 col. 1, para. 7, lines 1-8); It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the methods of Kunii and CGI to include the teachings of Samjani in order to collect charging information from GPRS nodes with the applicable identifier to prepare it for submission to a billing system and use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2, para. 1 lines 1-4.

21. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable Kunii U.S. Pre-Grant Publication No. 2001/0056375 A1 in view of Edelman et al. U.S. Pre Grant Publication No. 2002/0029347 A1 in further view of Circenis U.S. Pre-Grant Publication No. 2003/0135474 A1 and Samjani, "General Packet Radio Service {GPRS}"

22. As per Claim 22, Kunii teaches a software business server (see para. 43 lines 1-10), for providing to a wireless terminal at least one option for paying for use of an application hosted by the wireless terminal see para. 46 lines 10-19 and para. 52 lines 4-15); and a user information server (see para. 53 lines 1-8), for receiving an indication of an option for paying for use of the application along with an identifier of the application piece (see para. 50; para. 52 lines 3-13; para. 53 lines 1-7 and 15-21); Kunii

teaches a user identifier stored in the wireless terminal (see para. 46 and 52). storing the indication of the option for paying for use of the application along with the identifier of the application and the user identifier (see para. 52 and 53, it is implicit that subsequent to paying for the application, the selected option is saved so as to be sent to the users phone. Kunii does not explicitly teach the limitation taught by Edelman determining whether the application hosted by the wireless terminal is registered with the operator network (see para. 60). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Kunii to include the teachings of Edelman to verify whether a user is authorized to access a particular piece of data, as taught in Kunii para. 60. Kunii does not explicitly teach the method taught by Circenis wherein the software business server is configured to bill for use of the application in response to a periodic report on usage of said application (see para. 12 and 24). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Kunii and Edelman to include the teachings of Circenis to enable dynamic customer licensing. Kunii does not explicitly teach wherein the support node is a gateway general packet radio service support node. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the system of Kunii to include the teachings of Samjani in order to collect charging information from GPRS nodes with the applicable identifier to prepare it for submission to a billing system and use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2,

para. 1 lines 1-4. The limitation, *"for receiving from the wireless terminal a get request issued by the application along with the user identifier and the identifier indicating the application, and for counting the packets bearing the identifier indicating the user and the identifier indicating the application"* is merely a statement of intended use and as such is afforded little patentable weight".

23. Claims 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable Kunii U.S. Pre-Grant Publication No. 2001/0056375 A1 in view of Edelman et al. U.S. Pre-Grant Publication No. 2002/0029347 A1 in further view of Circenis U.S. Pre-Grant Publication No. 2003/0135474 A1 and Samjani, "General Packet Radio Service {GPRS}" (Reference V of the attached PTO-892).

24. As per Claim 21, Kunii in view of Edelman and Circenis teaches the method of claim 19 as described above. Kunii does not explicitly teach wherein the support node is a gateway general packet radio service support node. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. Samjani further teaches, GPRS uses the radio resources for allocation of channels to the user. We know that GPRS is not a circuit-switched oriented network. Hence, it involves more efficient usage of the available bandwidth (see pg. 14 col. 1, para. 7, lines 1-8); It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the system of Kunii to include the teachings of Samjani in order to collect charging information from GPRS nodes with the applicable identifier to prepare it for submission to a billing system and use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2, para. 1 lines 1-4.

25. As per Claim 24, Kunii in view of Edelman and Circenis teaches the method of claim 22 as described above. Kunii does not explicitly teach wherein the support node is a gateway general packet radio service support node. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. Samjani further teaches, GPRS uses the radio resources for allocation of channels to the user. We know that GPRS is not a circuit-switched oriented network. Hence, it involves more efficient usage of the available bandwidth (see pg. 14 col. 1, para. 7, lines 1-8); It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the methods of Kunii to include the teachings of Samjani in order to collect charging information from GPRS nodes with the applicable identifier to prepare it for submission to a billing system and use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2, para. 1 lines 1-4.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TONYA JOSEPH whose telephone number is (571)270-1361. The examiner can normally be reached on Mon-Fri, 7:30 am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628